

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable receive a tax exemption identification number ("E" number). See 86 Ill. Adm. Code 130.2005. (This is a GIL).

April 23, 1999

Dear Mr. Xxxxx:

This letter is in response to your letter dated March 5, 1999. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 86 Ill. Adm. Code 1200.120(b) and (c), enclosed.

In your letter, you have stated and made inquiry as follows:

Our company sells early childhood educational products to retailers and consumers in your state. We are in the process of auditing our state sales tax files. To confirm that we are collecting sales tax in accordance with the laws of your state, I request your assistance with the following items.

1) Please indicate, in writing, the taxability of sales to each of the following types of organizations:

- Headstart Programs, Delegates & Grantees
- Charitable, Religious & Not For Profit Organizations
- Federal, State, Local Governments and their agencies
- Public Schools & Universities
- Private Schools & Universities
- Hospitals, Mental Health & Physical Therapy Organizations
- Migrant Day Care Facilities for Children
- Bureau of Indian Affairs Day Care Facilities for Children
- Retailers (this category is listed for question 2 & 3 below)

It would be helpful to categorize these organizations as: a) always taxable, b) exempt if the purchaser provides the specified documentation/certification, or c) exempt by statute and no exempt certification is required from the purchaser.

- 2) Reference the paragraph of the applicable statute, administrative code or publication. If this reference is not available on your website, please mail a copy to me at the address below.
- 3) Include a sample copy of all certification documentation, if any, which we should accept from exempt organizations and retailers which purchase product from us. (Sample DOR letter with E#, Certificate of Resale, etc.)

Please call me if I can help clarify any of the above. Thank you for your assistance.

Organizations that make application to the Department and are determined to be exclusively religious, educational, or charitable receive a tax exemption identification number ("E" number). Organizations that have secured tax exemption identification numbers from the Department are exempt from Use Tax when purchasing tangible personal property for use in furtherance of organizational purposes, and retailers do not incur Retailers' Occupation Tax on such sales. See 86 Ill. Adm. Code 130.2005 and 130.2007, enclosed. It is important to note that only sales of tangible personal property invoiced to the organization itself are exempt, and sales to individual members of the organization are taxable.

Organizations that have E numbers may also engage in a limited amount of retail selling without incurring Retailers' Occupation Tax liability. These limited amounts of selling are described in Section 130.2005(a)(2-4). An exempt organization may engage in sales to members, noncompetitive sales, and certain occasional dinners and similar activities (two fundraisers a year) without incurring Retailers' Occupation Tax liability. However, if organizations possessing exemption numbers engage in ongoing selling activities (such as little league concession stands or sales of items in a thrift shop run by a church), they must also register with the Department as retailers, file returns, and remit tax. Such organizations must provide their suppliers with Certificates of Resale when making purchases for resale. See the enclosed copy of 86 Ill. Adm. Code 130.1405, which describes the requirements for Certificates of Resale.

Sales made to governmental bodies (federal, State, local, or foreign) are not subject to Retailers' Occupation Tax. See the enclosed copy of 86 Ill. Adm. Code 130.2080. In order to make a tax-exempt purchase, governmental bodies must generally have an active E number issued by the Department. However, retailers may accept U.S. Government Bank Cards in sales to the U.S. Government and its agencies without requiring an Illinois exemption number.

In addition, certain State licensed day care centers operated by not-for-profit organizations have been issued exemption numbers by the Department under Section 2h of the Retailers' Occupation Tax Act, 35 ILCS 120/2h, in which they can qualify as exclusively educational. Therefore, certain day care organizations can submit evidence of an E number to make certain tax-free purchases of tangible personal property.

When retailers buy tangible personal property from vendors that they will resell to purchasers, they may purchase such items tax-free by providing their vendors with properly executed Certificates of Resale. See Section 130.1405. A sale shall be made tax-free on the ground of being a sale for resale if the purchaser has an active registration number or resale number from the Department and furnishes that number to the seller in connection with certifying to the seller that any sale to such purchaser is nontaxable because of being a sale for resale. Failure to present an active registration number or resale number and a certification to the seller that a sale is for resale creates a presumption that a sale is not for resale. This presumption may be rebutted by other evidence that all of the seller's sales are sales for resale or that a particular sale is a sale for resale.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Gina Roccaforte
Associate Counsel

GR:msk
Enc.